

**Staff Report on the
Public Meeting of the
U.S. Advisory Commission on Public Diplomacy
July 12, 2011**



A Discussion of the Smith-Mundt Act

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Executive Summary

The U.S. Advisory Commission on Public Diplomacy convened a public meeting at the Capitol Visitor Center on July 12, 2011, to discuss the impact of the Smith-Mundt Act and legitimate efforts by the U.S. Government to understand, inform, and influence global publics.

Public Law 80-402: the United States Information and Educational Exchange Act of 1948, as amended, commonly known as the Smith-Mundt Act, is the foundational authorization for much of the public diplomacy activities of the U.S. Department of State. The Fulbright Amendment of 1972 and the Zorinsky Amendment of 1985 significantly altered the original prohibition on domestic dissemination to a prohibition on domestic access to material distributed abroad by the U.S. Information Agency, a prohibition inherited by the Broadcasting Board of Governors and the State Department when the USIA was abolished. The impact of the restriction and the potential impact of removing the restriction have been debated for years and were discussed in detail during this meeting.

Panelists for the meeting included Jeff Trimble, Executive Director, Broadcasting Board of Governors; Dr. Chris Paul, a social scientist from RAND Corporation; and Andrew Cedar, Senior Advisor in the Office of the Under Secretary for Public Diplomacy and Public Affairs.

The purpose of this Staff Report is to provide a summary and objective analysis of the meeting. Additionally, this Staff Report is intended to identify specific challenges and unanswered questions for further discussion for the purpose of improving the effectiveness and efficiency of U.S. public diplomacy and similar activities that intend to understand, inform, and influence foreign publics.

Analysis of Panel Discussions

Matt Armstrong, Exec. Dir., U.S. Advisory Commission on Public Diplomacy

Mr. Armstrong opened the panel discussion by commenting that traditional boundaries to communication including —.language, geography, time, culture, ethnicity... ..have virtually disappeared...” and that continued emphasis on those boundaries inhibits America’s ability to engage in the evolving communication environment and hinders public understanding of foreign policy, public diplomacy, and interferes with Americans’ understanding of U.S. activities around the world – all of which —.essentially [surrenders] much of the narrative to others.”

Jeff Trimble, Executive Director, Broadcasting Board of Governors

Jeff Trimble, Executive Director, Broadcasting Board of Governors, stated that the Broadcasting Board of Governors has drafted and received administrative approval for an amendment to Smith-Mundt which was recently transmitted to Congress. The proposed amendment would establish —...the Section 501 of the Smith-Mundt Act – that’s the domestic dissemination ban – and the Zorinsky Amendment are not applicable to the programming carried out by the...” BBG.

Trimble explained that U.S. international broadcasting operates within established journalistic standards pursuant to its legal obligations and, while the —.opportunity to be heard and read by U.S. audiences is desirable...” BBG does not aspire to compete against U.S. media or develop products for U.S. markets and —.would not actively market its programs in the U.S.

nor produce targeted programming.” However, Trimble also pointed out that the dissemination ban was implemented at a time when —.media sources were limited and programming more easily directed to target audiences...” and noted that evolution of the Internet and digital technology render the ban anachronistic and —.impossible to enforce.”

In essence, Trimble asserted that while BBG’s mission to reach overseas audiences endures it is simply no longer possible to deliver products to foreign publics that do not also reach American consumers. He further pointed out that U.S. media outlets increasingly seek access to BBG video or other content as sources for their own stories, particularly as their own overseas news gathering assets diminish.

According to Trimble, compliance with legal prohibitions can be maintained in spirit by limiting —inadvertent domestic distribution” of BBG products, but the law does inhibit the ability to reach desired foreign expatriate audiences within the United States and is regularly – though inadvertently – violated by civilian media organizations when they incorporate publically accessible BBG products into their own programming. Consequently, BBG products cannot intentionally be used in ways that would (1) reach ideal publics, and (2) maximize efficient use of U.S. taxpayer dollars. In short, according to Trimble, Smith-Mundt puts a chill on efforts to promote desirable global engagement.

Andrew Cedar, Senior Advisor in the Office of the Under Secretary for Public Diplomacy and Public Affairs

Andrew Cedar welcomed efforts to re-examine Smith-Mundt. According to him, when looking at the world as it will likely develop in the future, —.it’s a world in which we need greater flexibility to be able to engage the audiences that we need to.” He went on to highlight a need for greater flexibility in light of an evolving communication environment in which —.any concept of a domestic website versus an international website is just so arcane at this point, it’s not even worth wasting the time talking about.” Building upon Trimble’s comments, Cedar identified the need to engage Diaspora communities within the U.S. when, for example, attempting to improve participation in and increase awareness of youth, educational, and cultural exchange programs. He went on to identify the strategic imperative of public diplomacy to reach out to others and engage via third-party platforms through which it is increasingly impractical to limit interaction only to foreign (non-U.S.) publics.

Cedar indicated Smith-Mundt contributes to inefficient use of taxpayer dollars by requiring distinct communication activities to inform both U.S. and foreign publics about the same public diplomacy programs. He also noted however that possible changes to the law must take into account the fact that line-item budgeting for public diplomacy activities, while not formally guaranteed within Smith-Mundt, is traditionally anchored to that law.

Dr. Chris Paul, Social Scientist, RAND Corporation

Chris Paul identified several persistent calls for improvement in public diplomacy practices (and the related strategic communication function) identified throughout numerous reports and reviews— the four most frequent being calls for clear leadership; a clear definition of overall strategy; a need for better coordination; and, most common, demands for increased resources. He further noted that the Department of Defense currently —.employs the majority of resources in terms of funding, manpower, tools and programs used by the United States

government for efforts to inform, influence, and persuade foreign audiences and publics,” which he identified as a less-than-ideal balance of capabilities that needs to be adjusted.

To meet this balance Paul suggested that Department of State capabilities must become —.sufficiently robust to meet baseline steady-state needs...on a global level.” He pointed out however that the Department of Defense will need to maintain a significant capability in this area because it will continue to act in ways that communicate messages to foreign publics which will in turn require the ability to surge in response to contingencies. Therefore a shift in balance of PD/SC capabilities between the Department of Defense and the Department of State must be achieved deliberately and allow flexibility in U.S. response to rapidly evolving circumstances.

Paul also expressed a need for some sort of independent entity aligned with, but not part of, government that can support USG efforts while being —.able to do things that a government entity just can’t do or have, such as certain kinds of flexibility and certain kinds of relationships with the private sector.” Strengthening America’s Global Engagement (SAGE), hosted by the Woodrow Wilson International Center for Scholars, was highlighted as one such effort to —.articulate an actionable business plan for just such an organization.”¹ Advantages of such an organization, according to Paul, would include increased flexibility, an opportunity to pool resources across government and the private sector, enabling public-private partnerships, and activating —.expertise and contributions in academia, from industry, and even at the level of private citizens...” which would be both cost-effective from the perspective of the federal government.

Specific to Smith-Mundt, Paul identified the 1948 Act as advantageous in that it authorized the U.S. government to conduct international educational exchange activities for the first time in history. However, he also asserted that prohibitions against dissemination of U.S. government information within the U.S., though perhaps understandable 60 years ago, fail —.to take into account the global nature of the contemporary information environment.”

Analysis of Responses to Questions from Commission

Original Drivers of Smith-Mundt

Trimble summarized two concerns that drove the initial creation of Smith-Mundt. First was the mitigation of risk that a government broadcaster would propagandize the American people on behalf of a sitting Administration. Second was to avoid creating a marketplace competitor for American domestic media organizations.

Armstrong stated that the Smith-Mundt Act was legislation to empower the Department and was enacted during a time of significant Congressional distrust of the State Department. The use of government media to provide information to the American public, Armstrong explained, was deliberately limited whenever —.corresponding private information dissemination [was] found to be adequate.” He further noted that the 1985 Zorinsky Amendment² to Smith-Mundt resulted in the U.S. federal court ruling USIA material exempt from the Freedom of Information Act,³ with the implication that distribution of such materials to the American public was not only

¹ See <http://www.wilsoncenter.org/sage> for more.

² See <http://mountainrunner.us/2009/05/zorinsky.html> for more on Senator Zorinsky’s view on USIA.

³ See —Raising the Iron Curtain on Twitter: Why the US Must Revise the Smith-Mundt Act to Improve Public Diplomacy,” http://mountainrunner.us/2010/02/iron_curtain_on_twitter.html.

prohibited but that those taxpayer funded materials should be concealed from the American public.

Challenges to Modification of Smith-Mundt

Cedar identified two risks he sees at the forefront of people within the State Department. First, that Smith-Mundt is perceived —.as the guarantor of protection for funding...” in that it specifically authorizes overseas communication which has over time been interpreted to mean those funds are not for domestic use. Second, that changes in Smith-Mundt would result in money being pulled back from overseas posts over time and dedicated to activities including domestic press work or used to influence decisions on which languages presidential speeches might be translated into based on domestic constituencies. He contended both risks are more a matter of internal decision-making and processes than a legislative matter – internal and political concerns – but are nonetheless very real, particularly for those who —.lived through that walk over from USIA and are concerned about those things rearing their head again.”

Practical Implications for Operations

Trimble identified perceptions among foreign governments of inconsistencies in U.S. communication practices as potentially detrimental to the US government’s credibility; citing Russian officials who consistently tell him, —.if you really were high-quality real professional journalism, as you say you are, why can’t you be distributed in the United States?” This was contrasted with a move by the BBC to begin generating Britain’s foreign language content in the same facility as its domestic content. Paul concurred with this concern, stating, —If you want to be believed, if you want to argue that it’s true and persuasive on its own virtuous merits, then that information should be available to the domestic audience as well.”

In response to a question about the four PD/SC shortfalls he identified, Paul went on to explain the perception identified in his survey or reports that there is a significant disconnect between U.S. communication activities and clear objectives, outcomes, and articulated strategies to achieve them. He added, communicators can either explain or apologize for clearly articulated policies – but they, —.can’t communicate to improve bad policies...” that are unattractive to foreign publics. Furthermore, poor coordination between U.S. government organizations frequently results in public statements that, even when accurate, appear to be contradictory. Solutions offered by those he interviewed include creation of a new structure at the National Security Council, possible re-creation of USIA with appropriate coordinating authority, or improved voluntary inter-agency coordination.

Cedar pointed out that progress has been made in leadership and strategy development efforts and efforts to operationalize PD activities will continue, but will undoubtedly be challenging – especially in light of developing budgetary constraints and competition for resources.

Trimble closed the response with a reminder that U.S. international broadcasting is a public-private partnership, that the it —.acquires a significant amount of programming from the private sectors in the U.S. and purposes it and delivers it to audiences overseas,” and that the BBG continues to expand that effort to fill programming streams at low cost.

Shift of Balance from Defense to State

Paul reiterated the need for a deliberate sustainable shift in balance of capabilities and resources from DoD to Defense but noted efforts so far remain at the interagency discussion stage.

Leadership Support from the Hill

Trimble explained that efforts to develop relationships, understanding, and support on the Hill are at the early stages, but are progressing.

Update on SAGE Effort

Brad Minnick, Project Director of SAGE initiative at Woodrow Wilson International Center for Scholars, stated that a draft of the SAGE report, which calls for creation of an ~~in~~independent, non-governmental but governmental-supportive entity,” is complete and being reviewed by ~~senior-level~~senior-level outside experts,” after which it will be publicly released.

Analysis of Responses to Questions During Open Forum

The following key points were provided in response to questions from the audience in attendance:

- Current efforts to modify Smith-Mundt focus on BBG but future efforts may incorporate State Department-specific modifications.
- BBG is currently prohibited by law from producing content for distribution inside the U.S. and will continue to comply with the law. However, anecdotal communication to closed foreign publics through expatriate communities within the U.S. or via diaspora communities in other nations seems to be an effective way to reach those closed communities, so legal paths to employ that strategy should be explored.
- Expat populations within the U.S. have access to foreign media content intended to influence them but access to the U.S. government perspective is limited. The resulting dissonance in what foreign audiences hear from the U.S. Government abroad and what they hear from relatives in the U.S. and media based in the U.S. creates unnecessary challenges.
- Any changes to law, policy or practice must absolutely preserve the credibility of the U.S. government and its representative organizations.
- Increasing Congressional understanding of and support for public diplomacy, its purpose and related issues, is required for any changes – legal, organizational, or otherwise.
- Dialogue is now an innate characteristic of our communication environment and the ability to control monologue – message delivery to target audiences – has naturally been reduced, yet much of our thinking, policies and practices are still oriented toward the concept of monologue.
- Modern organizations, including governments, that do not engage in dialogue with their publics are in trouble.
- Law, policy and practices must be adapted to the evolving communication environment.

- The U.S. Advisory Commission on Public Diplomacy was established in 1948 by the Smith-Mundt Act to provide oversight over and advocacy for U.S. Government communication activities. The requirement for such a body has not gone away and is arguably greater today than at any time in recent decades.

Commission Staff Comments on Analysis

Although comprehensive study would be required to draw sound conclusions and develop actionable recommendations for potential changes in Smith-Mundt, anecdotal evidence provided throughout the course of this meeting suggests the Act may hinder organizational changes required to adapt public diplomacy practices to the evolving communication environment. These hindrances were highlighted along four avenues:

Mindset

Participants consistently emphasized the point that the environment in which Smith-Mundt was created has shifted significantly from one in which information could be controlled and delivered to specific audiences, to one in which traditional boundaries such as geography, national borders, language, and culture no longer constrain engagement with key publics. This suggests potential changes in Smith-Mundt should be guided by a shift in mindset from one that emphasizes monologue to one that embraces dialogue and accepts the new reality that it is quite simply not possible to create and distribute media products to foreign publics without assuming that they will also be consumed by people within the U.S.

Principles

Based on comments from the participants, Smith-Mundt in its current form may work against efforts to preserve the credibility of U.S. government media production and distribution organizations, both at home and abroad/ This is contrary to the original purpose of the Act. Additionally, the law appears to lead to concealment of government activities, duplication of effort, and inefficient use of taxpayer dollars-- activities of particular importance in context of growing expectations regarding (and the environmental realities related to) transparency, fiscal responsibility, and government accountability within an open society.

Processes

Based on comments from participants in the meeting, Smith-Mundt is to some degree unenforceable in its current form and contributes to procedural efforts to control information flow and conceal origins of media products – actions that are unlikely to succeed within an evolving communication environment characterized by the speed, ubiquity, and mobility of human interaction.

Structure

Based on comments from participants, the current balance of public diplomacy (and communication) related capabilities among U.S. government departments and agencies (particularly State and Defense) may contribute to poorly coordinated activities. Some degree of realignment may be needed to account for an environmental shift from controlled one-to-one

communication toward many-to-many communication that is not constrained by traditional boundaries (and by nature defies tight control).

Summary

Participants in the July 12, 2011, Meeting of the U.S. Advisory Commission on the topic of the Smith-Mundt Act consistently identified challenges to a unified U.S. public diplomacy effort. These include emphasis on an information control and delivery mindset, actions contrary to key U.S. principles (the “say-do gap”), inefficient processes and bureaucracies, and poor coordination between organizations.

These continue in part as a result of slow adaptation to a rapidly evolving communication environment that requires a shift in mindset from control to engagement; consistent adherence to core principles that further and preserve U.S. credibility; and a persistent failure to account for the increasing speed, ubiquity, and mobility of human interaction.

The degree of organizational transformation needed may require changes to the Smith-Mundt Act, which will in turn will require Members and staff of Congress to develop a thorough understanding of the evolving communication environment and development of clear outcome-based goals, supporting objectives and strategies, for U.S. Government activities that intend to understand, inform, and influence global publics.

To read the meeting transcript: <http://www.state.gov/pdcommission/meetings/177317.htm>



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